REMARKS

Reconsideration and allowance of this application are respectfully requested.

Claims 1-40 are pending and at issue in this application. The Office has identified the following patentably distinct inventions (Groups I-IV):

Group I: claims 1 and 3-14 (in part) and 15-29, drawn to a method for preparing a compound of formula I, classified in class 544, subclasses 284, 287;

Group II: claims 2 and 3-14 (in part), drawn to an alternative method for preparing a compound of formula I, classified in class 544, subclasses 284, 287;

Group III: claims 30-35, drawn to a method for preparing a compound of formula 3a, classified in class 560, subclass 35; and

Group IV: claims 36-401, drawn to a compound of formula 3a, classified in class 560, subclass 35.

The Office alleges that the inventions of Groups I-III are unrelated as distinct processes with different starting materials, reagents and reaction steps. In addition, the Office alleges that the inventions of Group IV and Group I (or II) are related as mutually exclusive species in an intermediate-final product relationship.

Applicants provisionally elect, with traverse, Group I (claims 1 and 3-14 (in part) and 15-29), drawn to a method for preparing a compound of formula I. Applicant reserves the right to file one or more divisional applications directed to the non-elected subject matter in this application.

Applicants traverse the Office's rejection on the grounds that it is improper and an abuse of discretion because prosecution of the restricted subject matter in one application would not place a serious burden on the Examiner. M.P.E.P. § 803. According to M.P.E.P. § 803 the Examiner can only restrict patentably distinct inventions when (1) the inventions are independent or distinct as claimed **and** (2) where there is a serious burden on the Examiner if restriction is not required.

Applicants respectfully submit that the Office has made no showing that prosecuting the claims of the invention in one application would be burdensome. Applicants therefore submit that the Office's requirement of restriction is improper.

For example, Applicants submit that the prosecution of Groups I-II in the same application would not be burdensome because the Examiner would be required to search the same class in order to determine patentability of each Group.

Further, the claims of Groups I and II all depend, directly or indirectly, on claim 1. Accordingly, a search of the claims of Group I will necessarily coincide with the search of the claims of Group II. Therefore, in an effort to conserve resources it is more efficient to examine the claims of at least Groups I II.

In view of the above, Applicants submit that the restriction requirement is improper and respectfully requests that the Office withdraw the restriction requirement, or at least rejoin Groups I and II for all the reasons presented herein.

Respectfully submitted,

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